

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SIMON GALLEGOS,

Plaintiff,

v.

Civ. No. 19-684 MV/GBW

CORIZON HEALTHCARE INC., *et al.*,

Defendants.

ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS

THIS MATTER comes before the Court on Plaintiff Simon Gallegos' Motion to Proceed *In Forma Pauperis*. Doc. 2. Plaintiff is incarcerated at the Northwest New Mexico Correctional Center. He seeks to prosecute his prisoner civil rights action without prepaying the \$400 filing fee. Plaintiff's financial information reflects he is unable to prepay the fee. The Court will therefore grant the motion, which reduces the fee to \$350.00, and allow Plaintiff to pay in installments. *See* 28 U.S.C. § 1915(b).

Plaintiff must make an initial partial payment of "20 percent of the greater of— (A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint..." *Id.* Thereafter, Plaintiff is "required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account." 28 U.S.C. § 1915(b)(2).

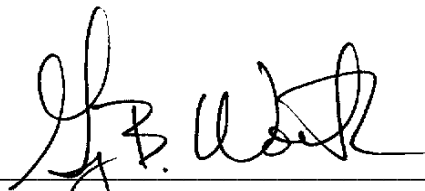
Plaintiff's inmate account statement reflects his average monthly deposits are \$82.40 and his average monthly account balance is \$79.05. *See doc. 4* at 12. The Court will assess an initial payment of \$16.48 (which is 20% of the greater figure, \$82.40) pursuant to § 1915(b)(1)(A). The Court generally will not review the merits of Plaintiff's civil rights complaint unless the initial partial payment is paid or excused. If Plaintiff fails to timely make the initial partial payment, his complaint may be dismissed without further notice.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (*doc. 2*) is GRANTED;

IT IS FURTHER ORDERED that, within **thirty (30) days** from entry of this order, Plaintiff shall send to the Clerk an initial partial payment of **\$16.48** or show cause why the payment should be excused;

IT IS FURTHER ORDERED that the Clerk is directed to provide Plaintiff with two copies of this order, and that Plaintiff make the necessary arrangements to attach one copy of this order to the check in the amount of the initial partial payment;

IT IS FINALLY ORDERED that, after payment of the initial partial fee, Plaintiff make monthly payments of twenty percent (20%) of the preceding month's income credited to his account or show cause why the designated payments should be excused.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE